

As Engrassed: 5/12/97

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1 pursuant to generally accepted accounting principles, and, except as provided
 2 in this Section, shall be subject to regulation only in accordance with this
 3 Section and shall not be subject to any rate review or rate of return
 4 regulation by the Commission. Such companies shall file rate lists for their
 5 telecommunications services which rates shall be effective upon filing, except
 6 the rates for basic local exchange services and switched access services,
 7 which rates shall be effective upon compliance and in accordance with the
 8 procedures in this Section. Any service that is not a telecommunications
 9 service is not subject to regulation by the Commission, and rates for such
 10 services need not be filed with the Commission.

11 (b) On the effective date of an election pursuant to this Section, the
 12 tariffed rates of a company electing to be subject to the provisions of this
 13 Section are deemed just and reasonable and shall continue to be deemed just
 14 and reasonable as long as any increases in such company's tariffed rates are
 15 in accordance with the provisions of this Section.

16 (c) The company may increase its basic local exchange service rates
 17 after sixty (60) days' notice to all affected subscribers. Rates for basic
 18 local exchange services may be reduced and be effective immediately upon
 19 filing or at such later time specified in such filing. Notice by the company
 20 to its subscribers shall be by regular mail and may be included in regular
 21 subscriber billings and shall include the following:

22 (1) A schedule of the proposed basic local exchange service rate change;

23 (2) The effective date of the proposed basic local exchange service rate
 24 change; and

25 (3) An explanation of the right of the subscriber to petition the
 26 Commission for a public hearing on the rate increase and the procedure
 27 necessary to petition.

28 (d) The subscriber petitions provided for in this Section shall be
 29 prepared as follows:

30 (1) FORM.

31 (A) The petition shall be headed by a caption, which shall contain:

32 (i) The heading, "The Arkansas Public Service Commission"

33 (ii) The name of the company or cooperative seeking a change in
 34 basic local exchange service rates.

35 (iii) The relief sought.

36 (B) A petition substantially in compliance with the form set forth in

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1 this subsection shall not be deemed invalid due to minor errors in its form.

2 (2) BODY. The body of the petition shall consist of three numbered
3 paragraphs, if applicable, as follows:

4 (A) ALLEGATIONS OF FACTS. The allegations of facts shall be stated in
5 the form of ultimate facts, without unnecessary detail, upon which the right
6 to relief is based. The allegations shall be stated in numbered subparagraphs
7 as necessary for clarity.

8 (B) RELIEF SOUGHT. The petition shall contain a brief statement of the
9 amount of the change in basic local exchange service rates that is objected to
10 or other relief sought.

11 (C) PETITIONERS. The petition shall contain the name, address, telephone
12 number, and signature of each subscriber signing the petition. Only the
13 subscriber in whose name the telephone service is listed shall be counted as a
14 petitioner. Every signature must be dated and shall have been affixed to the
15 petition within sixty (60) days preceding its filing with the Commission.

16 (e) Exclusive of basic local exchange service rate changes pursuant to
17 Section 4, the Commission shall have authority to review basic local exchange
18 service rates set by the company only upon a formal petition which complies
19 with subsection (d) of this Section and which is signed by at least fifteen
20 percent (15%) of all affected subscribers. If a proper petition is presented
21 to the Commission within sixty (60) days after the date of notice of the rate
22 change was sent to affected subscribers, the Commission shall accept and file
23 the petition and, upon reasonable notice, may suspend the rates and charges at
24 issue during the pendency of the proceedings and reinstate the rates and
25 charges previously in effect and shall hold and complete a hearing thereon
26 within ninety (90) days after filing to determine if the rates as proposed are
27 just and reasonable. The Commission may, within sixty days after close of the
28 hearing, enter an order adjusting the rates and charges at issue, except that
29 the Commission may not set any rate or charge below the basic local exchange
30 service rates in effect at the time the new rate at issue was proposed. A
31 company subject to this Section shall not increase its rates without the
32 approval of the Commission for six months after the date the Commission enters
33 such order. If the Commission fails to enter any order within sixty days
34 after the close of the hearing, the petition shall be deemed denied and the
35 rates and charges shall be deemed approved for all purposes, including the
36 purposes of appeal.

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1. (f) Rates for switched access services of companies that are subject to
2. this Section shall be determined pursuant to Section 7, except as provided in
3. Section 12(1) and Section 4.

4. (g) A company subject to this Section may at any time file an
5. application with the Commission requesting the Commission to prescribe just
6. and reasonable rates for the company. Any rate so set may thereafter be
7. adjusted as provided in this Section.

8. (h) Nothing herein shall restrict any customer's right to complain to
9. the Commission regarding quality of service or the Commission's authority to
10. enforce quality of service rules and standards which are equally imposed on
11. all telecommunications providers.

12. (i) The Commission may, on its own motion, review basic local exchange
13. service rates of any company subject to this Section if the company has
14. increased such rates by more than the greater of fifteen percent (15%) or
15. \$2.00 per access line per month within any consecutive twelve-month period,
16. excluding rate increases ordered by the Commission pursuant to Section 4. The
17. Commission shall hold and complete a hearing on such rates within ninety days
18. after first giving notice of such hearing to the company to determine if the
19. rates as proposed are just and reasonable. The Commission may, within sixty
20. days after close of the hearing, enter an order adjusting the rates and
21. charges at issue, except that the Commission may not require the company to
22. set any rate or charge below the greater of the rates in effect at the time of
23. the filing of the increase or the actual cost of providing such service as
24. established by evidence received at the hearing. In such order, the
25. Commission may order a refund of amounts collected in excess of the rates and
26. charges as approved at the hearing which may be paid as a credit against
27. billings for future services. If the Commission fails to enter any order
28. within sixty days after the close of the hearing, the rates and charges shall
29. be deemed approved for all purposes, including for purposes of appeal.

30. (j) For purposes of this Section, the Commission may not require a
31. company that is subject to this Section, to set its rates below the actual
32. cost of the company providing the service. The actual cost shall, if
33. requested by the company, be determined to include a ratable portion of
34. administrative expenses and overhead incurred by the company in its operations
35. and the appropriate amortization of previously deferred accounting costs.

36. (k) No rural telephone company subject to this Section may change its

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Speaker

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1 basic local exchange service rates within ninety days after entry of a final
2 order adjusting such rate pursuant to paragraphs (g) and (i) of this Section.

3 (1) Notwithstanding the provisions of this Section, if, at any time
4 following the three year anniversary of the notice provided under this
5 Section, another telecommunications provider is providing basic local exchange
6 service or switched access service within a local exchange area of the company
7 subject to this Section, the company that is subject to this Section, may
8 determine its rates for basic local exchange service and switched access
9 service within any exchange in which another telecommunications provider is
10 providing these services, in the same manner that it determines its rates for
11 other services pursuant to Section 12(a).

12 (m) A rural telephone company electing to be regulated in accordance
13 with this Section may package any of its services with any other service it or
14 its affiliates offer, with or without a discount, provided that basic local
15 exchange services and switched access services may be purchased separately at
16 the rates which are established in accordance with this Section.

17
18 SECTION 13. (a) Arkansas Code 23-17-227(d) is repealed.

19 ~~(d)(1) The commission, in granting any certificate, may allocate areas~~
20 ~~between telecommunications companies and cooperatives and charge them with the~~
21 ~~responsibility of furnishing telecommunications service in the respective~~
22 ~~areas so allocated.~~

23 ~~(2) No area then being furnished with reasonably adequate~~
24 ~~telecommunications service by a telecommunications company or a cooperative~~
25 ~~shall be assigned to another cooperative or telecommunications company.~~

26 (b) All laws and parts of laws in conflict with this act are hereby
27 repealed.

28
29 SECTION 14. If any provision of this Act or the application thereof to
30 any person or circumstance is held invalid, such invalidity shall not affect
31 other provisions or applications of this Act which can be given effect without
32 the invalid provision or application, and to this end the provisions of this
33 Act are declared to be severable.

34
35 SECTION 15. All provisions of this Act of a general and permanent nature
36 are amendatory to the Arkansas Code of 1987 Annotated, and the Arkansas Code

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1 Revision shall incorporate the same in the Code.

2

3 SECTION 16. EMERGENCY. It is hereby found and determined by the Eighty-
 4 first General Assembly that: (I) It is in the public interest to maintain and
 5 preserve the commitment of universal availability of reasonably affordable
 6 telecommunications services; (II) Competition and growth in the
 7 telecommunications industry are affected by demographics and population
 8 density. Therefore, telecommunications providers serving high-cost rural areas
 9 often have needs that are different from those of telecommunications providers
 10 serving only urban areas. Accordingly, the regulatory framework established by
 11 this Act seeks to recognize and accommodate the unique factors faced by
 12 telecommunications companies serving high-cost rural areas in addition to
 13 providing all local exchange carriers with additional regulatory options to
 14 assist them in providing telecommunications services and technological
 15 advances to their customers; and, (III) It is essential that the State of
 16 Arkansas immediately revise its existing regulatory regime for the
 17 telecommunications industry to ensure that it is consistent with and
 18 complementary to the Federal Telecommunications Act of 1996. Therefore an
 19 emergency is declared to exist and this act being immediately necessary for
 20 the preservation of the public peace, health and safety shall become effective
 21 on the date of its approval by the Governor. If the bill is neither approved
 22 nor vetoed by the Governor, it shall become effective on the expiration of the
 23 period of time during which the Governor may veto the bill. If the bill is
 24 vetoed by the Governor and the veto is overridden, it shall become effective
 25 on the date the last house overrides the veto.

/s/ Hopkins et al



President of the Senate

ATTACHMENT 18

Jim Davis
Latent draft
Carroll

Mark

ENGROSSED HOUSE
BILL NO. 1815

By: Adair, Voskuni,
Hutchison, Hefner,
Steidley and Thornbrugh
of the House

and

Robinson of the Senate

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(telecommunications - Telephone Competition, Rural
Service and Consumer Protection Act of 1997 -
Oklahoma Universal Service Fund - repealing 17
O.S., Section 137.1 - codification - effective
date -

emergency)

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. It is the intent of the Legislature in enacting this
act to modernize and improve the system of regulation of
telecommunications service in Oklahoma so that it:

1. Ensures that all Oklahoma consumers, both rural and urban,
are provided telecommunications service that is of high quality from
reputable providers;
2. Ensures that basic local exchange service remains available
to all consumers of the state at reasonable and affordable prices;
3. Encourages investment in Oklahoma's telecommunications
infrastructure and encourages the timely introduction of innovative
products and services for Oklahoma consumers;
4. Provides a framework for a competitive telecommunications
marketplace where competitors compete on fair and equal terms and
consumers derive the benefit of competition; and
5. Recognizes the benefits to all Oklahomans of maintaining
availability of affordable telecommunications services in both rural

1 and urban areas, and apportions the costs of insuring maintenance of
2 modern and affordable telecommunications technology in high-cost
3 areas of the state among all telecommunications carriers doing
4 business in the state in a competitively neutral manner.

5 The Legislature recognizes the changes brought about by the
6 federal Telecommunications Act of 1996 and the need to make the
7 necessary changes in Oklahoma for our citizens to receive the full
8 benefits of the new telecommunications environment.

9 SECTION 2. NEW LAW A new section of law to be codified in
10 the Oklahoma Statutes as Section 139.101 of Title 17, unless there is
11 created a duplication in numbering, reads as follows:

12 This act shall be known and may be cited as the "Telephone
13 Competition, Rural Service and Consumer Protection Act of 1997".

14 SECTION 3. NEW LAW A new section of law to be codified in
15 the Oklahoma Statutes as Section 139.102 of Title 17, unless there is
16 created a duplication in numbering, reads as follows:

17 As used in the Telephone Competition, Rural Service and Consumer
18 Protection Act of 1997:

19 1. "Access line" means a communications facility extending from
20 a customer's premises to a serving central office comprising a
21 subscriber line and, if necessary, a trunk facility;

22 2. "Basic local exchange service" means an access line and dial
23 tone provided to the premises of residential or business customers
24 for the transmission of two-way switched or dedicated communication
25 for usage with the local exchange area including:

- 26 a. a primary directory listing,
- 27 b. dual-tone multifrequency signaling,
- 28 c. access to operator services,
- 29 d. access to directory assistance services,
- 30 e. access to telecommunications relay services for the
- 31 hearing impaired,
- 32 f. access to nine-one-one service where provided by a
- 33 local governmental authority or multijurisdictional
- 34 authority,
- 35 g. lifeline service, and
- 36 h. access to interexchange long distance services;

1 3. "Central office" means a switching unit, in a telephone
2 system which provides service to the general public, having the
3 necessary equipment and operations arrangements for terminating and
4 interconnecting subscriber lines and trunks or trunks only. There
5 may be more than one central office in a building;

6 4. "Certificate of convenience and necessity" means a
7 certificate of authority issued by the Corporation Commission to
8 provide local exchange telecommunications service wherein the
9 provider may provide its own facilities or use a combination of its
10 own facilities and resell the facilities of other providers;

11 5. "Commission" means the Oklahoma Corporation Commission;

12 6. "Competitive local exchange telecommunications service
13 provider" means a local exchange telecommunications service provider
14 that has one or more certificates of convenience and necessity to
15 provide local exchange telecommunications service issued on or after
16 the passage of the federal Telecommunications Act of 1996. A
17 competitive local exchange telecommunications service provider is a
18 "transmission company" as that term is used in the Oklahoma
19 Constitution and in law;

20 7. "Competitively neutral" means not advantaging or favoring one
21 person over another;

22 8. "Competitive service" means a telecommunications service
23 provided by a local exchange telecommunications service provider
24 which has been determined by the Commission to have effective
25 competition;

26 9. "Electing Company" means an incumbent local exchange
27 telecommunications provider that has elected to be regulated pursuant
28 to Section 6 of this act;

29 10. "End User Common Line (EUCL) charge" means the flat rate
30 monthly interstate access charge required by the Federal
31 Communications Commission that contributes to the cost of local
32 service;

33 11. "Exchange" means an area established by a local exchange
34 telecommunications service provider consisting of one or more central
35 offices together with the associated facilities used in furnishing
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1 telecommunications services within that area. An exchange usually
2 embraces a city or town and its environs;

3 12. "External factor" means a cumulative impact on a local
4 exchange telecommunications provider's intrastate revenues of more
5 than three percent (3%), which is attributable to federal, state or
6 local government law, regulations or policies which change the
7 revenue, expense or investment of the provider, but shall not include
8 the effect of competition on the revenue, expense or investment of
9 the company;

10 13. "Facilities" means any of the physical elements of a
11 telephone plant that is needed to provide telecommunications services
12 including, but not limited to, wireless transmission systems,
13 switching systems, cables, fiber optic and microwave radio
14 transmission systems, measuring equipment, billing equipment,
15 operating systems, billing systems, ordering systems and all other
16 equipment and systems that a telecommunications service provider uses
17 to provide the telecommunications service;

18 14. "Governmental entity" means all Oklahoma state agencies,
19 commissions, boards, authorities and all Oklahoma public educational
20 entities, including school districts and political subdivisions,
21 including incorporated cities and towns and all institutions,
22 agencies or instrumentalities of municipalities, and county
23 governments;

24 15. "Incremental cost" means the value of the resources used up
25 because of offering a service. These include volume-sensitive
26 incremental costs, which are caused by the provision of additional
27 units of a volume of a service, and volume-insensitive incremental
28 costs, that are caused by the provision of a service in total, but do
29 not vary because of additional units of a service. Costs which are
30 common to the local exchange telecommunications service provider in
31 total shall not be included in incremental costs;

32 16. "Incumbent local exchange telecommunications service
33 provider" means a local exchange telecommunications service provider
34 that has one or more certificate of convenience and necessity to
35 provide local exchange telecommunications service on January 1, 1996.
36 An incumbent local exchange telecommunications service provider shall

1 be a "transmission company" as that term is used in the Oklahoma
2 Constitution and laws;

3 17. "Interconnection" means the capability of connecting the
4 networks of different local exchange telecommunications providers to
5 allow for the termination of local exchange calls;

6 18. "Interexchange carrier" means a common carrier that provides
7 services to the public between local exchanges on an intraLATA or
8 interLATA basis in compliance with state or federal regulatory
9 requirements and that is not an end user of the services provided;

10 19. "LATA" means Local Access and Transport Area;

11 20. "Local exchange telecommunications service" means
12 telecommunications service provided to establish connections between
13 customer premises within the exchange and to provide, at a minimum,
14 basic local exchange service, which may include expanded calling
15 areas, as applicable;

16 21. "Local exchange telecommunications service provider" means a
17 company holding a certificate of convenience and necessity from the
18 Oklahoma Corporation Commission to provide local exchange
19 telecommunications service;

20 22. "Oklahoma High Cost Fund" means the fund established by the
21 Corporation Commission in Cause Nos. PUD 950000117 and 950000119;

22 23. "OLF" means the Oklahoma Lifeline Fund established in this
23 act;

24 24. "OUSF" means the Oklahoma Universal Service Fund established
25 in OCC Rule, OAC 165:55-17-21;

26 25. "Person" means a natural person, partnership, association,
27 corporation, governmental entity or any other entity;

28 26. "Pricing flexibility" means the ability of an electing
29 company to price its services at market-based rates including, but
30 not limited to, customer specific contracts, volume, term, discount
31 and promotional pricing, zone density pricing and packaging of
32 services;

33 27. "Rate" means and includes every compensation, tariff,
34 charge, fare, toll or rental collected directly or indirectly by any
35 telecommunications service provider for any service, product or
36 commodity described in this act and any rules, regulations, practices

1 or contracts affecting any such compensation, tariff, charge, fare,
2 toll, rental or classification;

3 28. "Telecommunications" means the transmission, between or
4 among points specified by the user of voice or data information of
5 the user's choosing, without change in the form or content of the
6 information as sent and received;

7 29. "Telecommunications carrier" means a person that provides
8 telecommunications service in Oklahoma; and

9 30. "Telecommunications service" means the offering of
10 telecommunications for a fee.

11 SECTION 4. NEW LAW A new section of law to be codified in
12 the Oklahoma Statutes as Section 139.103 of Title 17, unless there is
13 created a duplication in numbering, reads as follows:

14 A. The rules of the Corporation Commission governing quality of
15 service shall apply to all local exchange telecommunications service
16 providers without exception.

17 B. Effective January 1, 1998, the Attorney General shall enforce
18 the telecommunications consumer protection provision of the Telephone
19 Competition, Rural Service and Consumer Protection Act of 1997 to
20 insure the consumer rights of all Oklahomans are protected. . This
21 responsibility will be funded on a competitively neutral basis by all
22 telecommunications carriers operating in Oklahoma.

23 C. The Attorney General shall have the power and responsibility
24 to:

25 1. Mediate grievances between consumers and telecommunications
26 carriers;

27 2. Provide annual reports to the Governor, the President Pro
28 Tempore of the Senate, the Speaker of the House of Representatives
29 and the Corporation Commission of the number, nature and resolution
30 of grievances mediated during the year;

31 3. Make recommendations to the Commission as to how to correct
32 abuses by telecommunications carriers; and

33 4. Represent consumers before the Commission in the enforcement
34 of telecommunications consumer rights.

35 D. The Commission, through the Consumer Services Division, shall
36 oversee telecommunications carriers to prevent fraud and other

1 practices harmful to consumers and to ensure compliance with quality
2 of service standards adopted for all local exchange
3 telecommunications service providers and other telecommunications
4 carriers which operate in the state.

5 SECTION 5. NEW LAW A new section of law to be codified in
6 the Oklahoma Statutes as Section 139.104 of Title 17, unless there is
7 created a duplication in numbering, reads as follows:

8 A. Each local exchange telecommunications service provider shall
9 file tariffs with the Commission implementing a program to provide a
10 full waiver of the End User Common Line charge and a credit equal to
11 the End User Common Line charge to the monthly basic service rate of
12 the customer for qualifying subscribers. Eligibility criteria for
13 this program shall comply with the provisions of 47 C.F.R., Section
14 69.104(k)(1) and shall be limited to subscribers who are eligible for
15 or receive assistance or benefits under the Link-Up America Program
16 or pursuant to the requirements established by the Department of
17 Human Services or the appropriate state agency charged with
18 administering public assistance programs in the state.

19 B. The Commission shall establish and maintain an Oklahoma
20 Lifeline Fund (OLF) to help ensure that low-income Oklahomans are
21 provided financial assistance in obtaining basic local exchange
22 telecommunications service. The OLF shall be funded in a
23 competitively neutral manner by all telecommunications carriers. The
24 funding from each carrier shall be based on the total retail-billed
25 Oklahoma intrastate revenues as a percentage of all carriers total
26 retail-billed intrastate revenues. Basic local exchange service
27 revenues shall be excluded from the funding formula.
28 Telecommunications carriers may, at their option, recover from their
29 customers the OLF charges paid by the telecommunications carrier.
30 The cost of administration of the OLF shall be included in the amount
31 collected from all telecommunications carriers. Proceeds from the
32 OLF shall be distributed to all local exchange telecommunications
33 service providers who are required to file Lifeline tariffs.

34 C. The OLF shall be administered by the administrator of the
35 Oklahoma High Cost Fund established by the Commission.

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1 SECTION 6. NEW LAW A new section of law to be codified in
2 the Oklahoma Statutes as Section 139.105 of Title 17, unless there is
3 created a duplication in numbering, reads as follows:

4 A. If, after the effective date of this act, an incumbent local
5 exchange telecommunications service provider notifies the Commission
6 in writing of its election to be regulated under the Telephone
7 Competition, Rural Service and Consumer Protection Act of 1997, the
8 electing company shall be subject to any inquiry, investigation,
9 complaint, hearing or determination regarding:

- 10 1. Reasonableness of rates;
- 11 2. Overall revenues;
- 12 3. Rate of return;
- 13 4. Return on invested capital;
- 14 5. Return on fair market value; or
- 15 6. Net income;

16 to the same extent and in the same manner that competitive local
17 exchange telecommunications service providers are, pursuant to the
18 rules adopted by the Commission in Cause No. RM 95000019, effective
19 July 1, 1996, subject to the same type of inquiry, investigation,
20 complaint, hearing or determination. Upon such election, the
21 Commission shall be without authority to issue any order contrary to
22 the provisions of this subsection. The tariffed rates of an electing
23 company on file with and previously approved by the Commission on the
24 effective date of the election shall be deemed to be fair, reasonable
25 and effective rates. Provided, however, any increase thereafter of
26 the tariffed rates by any electing local exchange provider or
27 competitive local exchange service provider must be presented to the
28 Oklahoma Corporation Commission for appropriate review, analysis and
29 final determination by the Commission.

30 B. Nothing in this section restricts any right of a consumer to
31 complain to the Commission regarding quality of service or the
32 authority of the Commission to enforce quality of service standards
33 through the Commission's contempt powers or authority to revoke a
34 certificate of convenience and necessity if the provider fails to
35 provide adequate service. A certificate of a provider shall not be
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1 revoked without notice, a hearing and an opportunity to correct any
2 inadequacy.

3 C. An incumbent local exchange telecommunications service
4 provider electing incentive regulation under this act shall limit its
5 rates for basic local exchange service to levels no higher than those
6 in existence on the date of the election, and shall remain at that
7 level for a period of two (2) years after the election. At the end
8 of the two-year period, the electing company shall price basic local
9 exchange service according to the provisions of subsection D and E of
10 this section, depending on if competitors have been certified in each
11 exchange.

12 D. Upon making an election under subsection A of this section,
13 in those exchanges in which the Commission:

14 1. Has granted a certificate of convenience and necessity to one
15 or more competitive local exchange telecommunications service
16 providers;

17 2. Has approved, pursuant to Commission rules, a service
18 territory for one or more such competitive providers that includes
19 all or part of the electing company's exchange; and

20 3. Has determined that effective competition exists;
21 the electing company shall have pricing flexibility and be permitted
22 to price the services offered by the company in said exchanges,
23 except basic local exchange service for the two-year rate cap period
24 provided for in subsection C of this section, at market-based rates
25 as is determined by the electing company.

26 E. In determining the appropriate pricing of new
27 telecommunications services in exchanges where there is only one
28 certificated provider, the Commission shall ensure that prices are
29 not:

- 30 1. Unreasonably preferential, prejudicial or discriminatory;
31 2. Subsidized directly by basic local exchange service; or
32 3. Priced below incremental costs.

33 F. The Commission shall allow an incumbent local exchange
34 telecommunications service provider that serves less than seventy-
35 five thousand (75,000) access lines as of the effective date of this
36 act, at the option of the company, to adopt the cost studies approved

1 by the Commission for a local exchange telecommunications provider
2 that serves seventy-five thousand (75,000) or more access lines or to
3 adopt the surrogate cost studies approved by the Federal
4 Communications Commission.

5 G. Except as otherwise provided for in this section, an electing
6 company shall be regulated only to the extent and in the same manner
7 as the Commission regulates competitive local exchange
8 telecommunications service providers pursuant to rules adopted by the
9 Commission in Cause No. RM 95000019.

10 H. Notwithstanding the other provisions of this section, all
11 local exchange telecommunications service providers shall have
12 pricing flexibility for all competitive services and shall be
13 permitted to price such services at market-based rates as determined
14 by the local exchange telecommunications service provider, regardless
15 of whether the Corporation Commission has granted a certificate of
16 convenience and necessity to another local exchange service provider.

17 I. A local exchange telecommunications service provider which
18 elects to be regulated pursuant to this section may terminate that
19 election by filing a notice with the Commission. Upon terminating
20 the election, the local exchange telecommunications service provider
21 may not elect to be regulated under this section for a period of two
22 (2) years from the date of the termination notice made pursuant to
23 this subsection. Nothing in this section shall limit or impact
24 review of rates, including possible overcharges and rebates, for
25 services before the effective date of this legislation.

26 SECTION 7. NEW LAW A new section of law to be codified in
27 the Oklahoma Statutes as Section 139.106 of Title 17, unless there is
28 created a duplication in numbering, reads as follows:

29 A. After the effective date of this act, the Commission shall be
30 prohibited from promulgating new rules that increase the regulatory
31 burdens on telecommunications carriers except upon a showing that the
32 benefits of such regulation exceed the cost of the regulation.

33 B. On or before February 1, 1998, the Commission shall have
34 completed a rulemaking proceeding to identify and repeal all
35 unnecessary rules relating to the provision of telecommunications
36 service.

1 C. All rules promulgated by the Commission after the effective
2 date of this act shall apply equally to all providers of local
3 exchange telecommunications service, both incumbent and competitive.

4 SECTION 8. NEW LAW A new section of law to be codified in
5 the Oklahoma Statutes as Section 139.107 of Title 17, unless there is
6 created a duplication in numbering, reads as follows:

7 A. Nothing in this section shall affect the state
8 telecommunications system known as OneNet or prevent a
9 telecommunications carrier from utilizing government facilities or
10 rights-of-way to provide telecommunications service.

11 B. All governmental entities may allow holders of certificates
12 of convenience and necessity or others to use governmental facilities
13 or public rights-of-way only on nondiscriminatory terms to all
14 holders of certificates of convenience and necessity.

15 SECTION 9. NEW LAW A new section of law to be codified in
16 the Oklahoma Statutes as Section 139.108 of Title 17, unless there is
17 created a duplication in numbering, reads as follows:

18 A. The Corporation Commission shall adopt and enforce rules
19 establishing an Oklahoma Universal Service Fund (OUSF).

20 B. The OUSF shall be funded and administered in order to promote
21 and assure the availability of universal service at rates that are
22 reasonable and affordable, and to provide for reasonably comparable
23 services at affordable rates in rural areas as in urban areas. The
24 OUSF shall provide funding to local exchange telecommunications
25 service providers that meet the eligibility criteria established in
26 this section, the quality of service rules established by the
27 Commission and which provide service over facilities owned by the
28 local exchange telecommunications service provider.

29 C. The OUSF shall be funded by an OUSF charge paid by all
30 telecommunications carriers at a level sufficient to maintain
31 universal service and if necessary to restructure the present system
32 of telecommunications service rates in the state as provided for in
33 this act.

34 D. The Commission shall appoint an OUSF Administrator, who shall
35 act under supervision of the Commission, to administer the OUSF in
36 accordance with the rules and procedures established by the

1 Commission and consistent with this section. The Administrator shall
2 enforce and implement all rules and orders of the Commission
3 governing the funding, collection of charges and eligibility for the
4 OUSF. Within sixty (60) days after receipt of a request for OUSF
5 funds, the Administrator shall review and determine the accuracy of
6 the request and advise the entity requesting the funds of the
7 determination of eligibility made by the Administrator. The affected
8 party shall have fifteen (15) days to request reconsideration by the
9 Commission of the determination made by the Administrator and shall,
10 after notice and hearing, if requested, issue an order on the
11 reconsideration. If the Commission does not issue an order within
12 ninety (90) days from the request for OUSF funds, the request shall
13 be deemed approved.

14 E. The OUSF charge levels shall be established by the Commission
15 based on the provisions of this subsection and shall apply to all
16 telecommunications carriers operating in the state. The Commission
17 shall have the authority and power to establish and enforce the
18 provisions of this subsection. The OUSF shall be funded in a
19 competitively neutral manner by all telecommunications carriers
20 operating in the state. The OUSF charge to each carrier shall be
21 based on the total retail-billed Oklahoma intrastate revenues of the
22 carrier as a percentage of all carriers' total retail-billed
23 intrastate revenues. Basic local exchange service revenues shall be
24 excluded from the OUSF charge formula. The cost of administration of
25 the OUSF shall be included in the amount collected from all
26 telecommunications carriers. Telecommunications carriers may, at
27 their option, recover from their customers the OUSF charges paid by
28 the telecommunications carrier. The OUSF Administrator shall notify
29 each telecommunications carrier of the OUSF charge levels required to
30 be paid by the carrier. If the Commission determines after notice
31 and hearing that a carrier has acted in violation of this section, in
32 addition to the other enforcement powers of the Commission, the
33 Commission acting through the Administrator may bring an action on
34 behalf of the OUSF in the appropriate district court in the state to
35 recover any charges the Commission determines are due and payable
36 under this section. The Administrator is authorized to bring the

1 action and to represent the OUSF in the action to collect the charges
2 and any costs incurred by the OUSF including but not limited to
3 interest, administrative and adjudicative costs and attorney fees.
4 Upon collection of the charges and costs, the Administrator shall pay
5 the costs of the actions and deposit the remaining funds in the OUSF.
6 The OUSF charge shall not be subject to state or local taxes or
7 franchise fees. If necessary, the Commission may increase the OUSF
8 charge by an amount necessary to recover the cost of administration
9 of the OUSF.

10 F. The Commission shall, after notice and hearing, establish
11 rules and procedures necessary to implement the OUSF consistent with
12 this section. The Commission shall implement the OUSF and make funds
13 available to local exchange telecommunications service providers no
14 later than ninety (90) days following the effective date of this act.
15 The Commission shall not, prior to implementation and the
16 availability of funds from the OUSF, require local exchange
17 telecommunications service providers to reduce rates for intrastate
18 access services or require any local exchange telecommunications
19 service provider to reduce the amount of funds the carrier receives
20 from the Oklahoma High Cost Fund (HCF), or modify or remove any
21 exemption provided to a rural telephone company as provided in the
22 Federal Telecommunications Act of 1996. In establishing and
23 implementing criteria for the OUSF, the Commission shall, at a
24 minimum, provide:

25 1. That the OUSF shall be paid to eligible local exchange
26 telecommunications service providers as provided for in this section,
27 including electing and nonelecting companies;

28 2. That any incumbent local exchange telecommunications service
29 provider may request funding from the OUSF as necessary to maintain
30 rates for basic local exchange telecommunications services that are
31 reasonable and affordable. The request submitted by the incumbent
32 local exchange service provider for OUSF funding shall be based on
33 all net investments, including embedded investments, and expenses
34 incurred by the incumbent local exchange telecommunications service
35 provider in the provision of basic local exchange service. OUSF
36

1 funding shall be provided to eligible incumbent local exchange
2 telecommunications service providers for the following:

- 3 a. investments and expenses required to provide, maintain
4 and support basic local exchange telecommunications
5 services,
- 6 b. infrastructure expenditures or mandated costs in
7 response to facility or service requirements
8 established by a legislative, regulatory, judicial
9 authority or governmental entity, and
- 10 c. for other purposes deemed necessary by the Commission
11 to preserve and advance the public health, safety and
12 welfare;

13 3. That in identifying and measuring the costs of providing
14 basic local exchange services, exclusively for the purpose of
15 determining OUSF funding levels under this section, the incumbent
16 local exchange telecommunications service providers shall:

- 17 a. calculate the costs of providing the services using
18 fully distributed Federal Communications Commission
19 parts 32 and 64 costs,
- 20 b. adopt the cost studies approved by the Commission for a
21 local exchange telecommunications service providers
22 that serve seventy-five thousand (75,000) or more
23 access lines,
- 24 c. adopt surrogate cost studies approved by the Federal
25 Communications Commission, or
- 26 d. identify high-cost areas within the local exchange area
27 it serves and perform a fully distributed allocation of
28 cost and identification of associated basic local
29 service revenue. The high-cost area shall be no
30 smaller than a single exchange, wire center or census
31 block group, chosen at the option of the incumbent
32 local exchange telecommunications service provider;

33 4. That, after notice and hearing, allow for expanded basic
34 local exchange services to be supported by the OUSF. The
35 Administrator, upon approval of the Commission, shall determine the
36 level of additional OUSF funding to be made available to an eligible

1 incumbent local exchange telecommunications service provider which is
2 required to recover the cost of any expansion of basic local exchange
3 services; and

4 5. For incumbent local exchange telecommunications service
5 providers serving less than seventy-five thousand (75,000) access
6 lines and for revenue neutral recovery of changes not recovered in
7 increases to local exchange rates of incumbent local exchange
8 telecommunications service providers serving greater than seventy-
9 five thousand (75,000) access lines:

- 10 a. in the event of a Federal Communications Commission
11 order, rule or policy made pursuant to Section
12 254(a)(2) of the Federal Telecommunications Act of
13 1996, the effect of which is to decrease the federal
14 universal service fund revenues of an incumbent local
15 exchange telecommunications service provider, the
16 incumbent local exchange telecommunications service
17 provider shall recover the decreases in revenues from
18 the OUSF,
- 19 b. if, as a result of changes caused by federal or state
20 regulatory rules, orders, or policies or by federal or
21 state law, an incumbent local exchange
22 telecommunications service provider experiences a
23 reduction in revenues or an increase in costs, it shall
24 recover the revenue reductions or cost increases from
25 the OUSF. The recovered amounts shall be limited to
26 the net reduction in revenues or cost increases, and
- 27 c. the receipt of OUSF funds for any of the changes
28 referred to in paragraph 4 of this subsection or
29 subparagraph a or b of this paragraph shall not be
30 conditioned upon any rate case or earning investigation
31 by the Commission. The OUSF Administrator shall verify
32 the calculations and accuracy of the request for OUSF
33 funds based on a comparison of the total annual
34 revenues received from these sources by the requesting
35 eligible incumbent local exchange telecommunications
36 service provider during the most recent twelve (12)

1 months preceding the request, and the reasonable
2 projection of total annual revenues or cost increases
3 which will be experienced after the changes are
4 implemented by the requesting eligible incumbent local
5 exchange telecommunications service provider.

6 G. The incumbent local exchange telecommunications service
7 provider, its successors and assigns, which owned, maintained and
8 provided facilities for universal service within a local exchange
9 area on January 1, 1996, shall be the local exchange
10 telecommunications service provider eligible for OUSF funding within
11 the local exchange area, except as otherwise provided for in this
12 act.

13 H. Where the incumbent local exchange telecommunications service
14 provider receives OUSF funds, except in areas served by an incumbent
15 local service provider serving less than seventy-five thousand
16 (75,000) access lines, the Commission, after notice and hearing, may
17 designate other local exchange telecommunications service providers
18 to be eligible for OUSF funding, provided:

19 1. The other local exchange telecommunications service provider
20 accepts the responsibility to provide service to all customers in the
21 local exchange area of an incumbent local exchange telecommunications
22 service provider using its own facilities, or a combination of its
23 own facilities and the resale of the service or facilities of
24 another. Universal service support under this subsection shall not
25 begin until the local exchange telecommunications service provider
26 has facilities in place and offers to serve all customers in the
27 service areas;

28 2. The other local exchange telecommunications service provider
29 may only receive funding for the portion of the facilities that it
30 owns and maintains;

31 3. The other local exchange telecommunications service provider
32 shall not receive OUSF funding at a level higher than the level of
33 funding received by the incumbent local exchange telecommunications
34 service provider for the same area if the incumbent local exchange
35 telecommunications service provider is also providing service in the
36 same area;

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1 4. The other local exchange telecommunications service provider
2 advertises the availability and charges for services it provides
3 through a form of media of general distribution; and

4 5. It is determined by the Commission that the designation is in
5 the public interest and the other local exchange telecommunications
6 service provider meets the quality of service rules established by
7 the Commission.

8 I. In exchanges or wire centers where the Commission has
9 designated more than one local exchange telecommunications service
10 provider as eligible for OUSF funding, the Commission shall permit
11 one or more of the local exchange telecommunications service
12 providers in the area to relinquish the designation as a local
13 exchange telecommunications service provider eligible for OUSF
14 funding in a manner consistent with Section 214(e)(4) of the Federal
15 Telecommunications Act of 1996, upon a finding that at least one
16 eligible local exchange telecommunications service provider shall
17 continue to serve the area.

18 J. For any area served by an incumbent local exchange
19 telecommunications service provider which serves less than seventy-
20 five thousand (75,000) access lines with the state, only the
21 incumbent local exchange telecommunications service provider shall be
22 eligible for OUSF funding. The company may elect to waive the right
23 to be the only eligible local exchange telecommunications service
24 provider within the local exchange area by filing notice with the
25 Commission.

26 SECTION 10. NEW LAW A new section of law to be codified
27 in the Oklahoma Statutes as Section 139.109 of Title 17, unless there
28 is created a duplication in numbering, reads as follows:

29 Pursuant to the authority vested in the Legislature by Section 35
30 of Article IX of the Constitution of the State of Oklahoma, the
31 Legislature hereby expressly declares that this entire act is an
32 amendment to, and alteration of, Sections 18 through 34 inclusive of
33 Article IX of the Constitution of the State of Oklahoma.

34 SECTION 11. REPEALER Section 3, Chapter 365, O.S.L. 1993
35 (17 O.S. Supp. 1996, Section 137.1), is hereby repealed.
36

1 SECTION 12. NONCODIFICATION Section 1 of this act shall
2 not be codified in the Oklahoma Statutes.

3 SECTION 13. This act shall become effective July 1, 1997.

4 SECTION 14. It being immediately necessary for the preservation
5 of the public peace, health and safety, an emergency is hereby
6 declared to exist, by reason whereof this act shall take effect and
7 be in full force from and after its passage and approval.

8 Passed the House of Representatives the 25th day of February,
9 1997.

10

11

12

Speaker of the House of
Representatives

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14

Passed the Senate the ____ day of _____, 1997.

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President of the Senate

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ATTACHMENT 19